

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

**ELECTRONIC CASE FILING POLICIES AND PROCEDURES
As Amended September 1, 2008**

1. Definitions.

- (a) “Document” shall include pleadings, motions, briefs, memoranda, exhibits, certifications, declarations, affidavits, papers, orders, notices, and any other filing by or to the Court.
- (b) “ECF SYSTEM” refers to the Court’s automated system that receives and stores documents filed in electronic form. The program is part of the CM/ECF (Case Management/Electronic Case Filing) software which was developed for the Federal Judiciary by the Administrative Office of the United States Courts.
- (c) “ECF Filing User” is an attorney who has a Court-issued login and password to file documents electronically.
- (d) “Notice of Electronic Filing” is a notice automatically generated by the Electronic Filing System at the time a document is filed with the system, setting forth the time of filing, the name of the party and attorney filing the document, the type of document, the text of the docket entry, the name of the party and/or attorney receiving the notice, and an electronic link (hyperlink) to the filed document, which allows recipients to retrieve the document automatically.
- (e) “PACER” (Public Access to Court Electronic Records) is an automated system that allows an individual to view, print, and download Court docket information over the internet.
- (f) “Paper Filing” is submitting a document in hard copy on paper.
- (g) “Pay.gov” is an electronic credit card payment system established by the United States Department of Treasury.
- (h) “PDF” refers to Portable Document Format. A document created with a word processor, or a paper document that has been scanned, must be converted to portable document format to be filed electronically with the Court. Converted files contain the extension “.pdf.”
- (i) “Procedures” refers to the these Electronic Case Filing Policies and Procedures.
- (j) “Proposed Order” is a draft document submitted by an attorney for a Judge’s signature.
- (k) “Technical Failure” is defined as a malfunction of Court owned/leased hardware, software, and/or telecommunications facility which results in the inability of an ECF Filing User to submit a filing electronically. Technical Failure does not include malfunctioning of an ECF Filing User’s equipment.

2. Actions Subject to Electronic Case Filing.

All civil, criminal, miscellaneous cases and documents filed in this Court, will be entered into the Court's ECF System in accordance with these Procedures. Except as expressly provided in these Procedures and in exceptional circumstances, all documents including Complaints and Notices of Removal shall be filed electronically. In a case removed to the Court, the removing party shall file electronic copies of all documents previously filed in state Court. All documents submitted as a Paper Filing must be accompanied by a disk or CD ROM containing the same documents in PDF format.

3. Initial Documents.

Complaints and Notices of Removal are to be filed electronically. Initial documents in cases subject to sealing or restricted access (e.g., qui tam or social security) shall be filed as a Paper Filing.

In criminal cases, the indictment, information, or complaint, including any superseders, warrant for arrest or summons, will be accomplished as a Paper Filing.

4. Eligibility, Registration, Passwords.

The following attorneys are eligible to register as ECF Filing Users: (a) all attorneys admitted to the Bar of this Court, including attorneys authorized to represent the United States; (b) out-of-state attorneys who represent a party in an action transferred to this Court pursuant to an Order issued by the Judicial Panel on Multidistrict Litigation;¹ (c) out-of-state attorneys who are retained to represent defendants in criminal cases. An attorney shall register as an ECF Filing User by completing the prescribed registration form and submitting it to the Clerk. The form is available on the Court's web site at www.njd.uscourts.gov.

When registering as an ECF Filing User, an attorney is certifying that he/she has completed the ECF tutorial on the Court's web site or some other form of training provided by the Court. It is recommended that a PACER account be established, which can be accomplished by visiting the PACER web site at <http://pacer.psc.uscourts.gov>. After verification, the ECF Filing User will receive an electronic notification of the user login and password. An ECF Filing User shall protect the security of the User's password and immediately notify the Court if the ECF Filing User suspects that the password has been compromised. No person other than the ECF User and his/her authorized agent may use the ECF Filing User's password.

An ECF Filing User shall promptly modify his/her contact information by accessing "Maintain Your Account" under Utilities in the ECF System, if there is a change in personal data, such as name, e-mail address, telephone number, etc., as required under Local Civil Rule 10.1. Other individuals who receive Notice of Electronic Filing, such as pro hac vice

¹ Pursuant to the General Rules of the Judicial Panel on Multidistrict Litigation, any attorney of record in any action transferred under 28 U.S.C. § 1407 may continue to represent his or her client in any district court of the United States to which such action is transferred; therefore, parties are not required to obtain local counsel in the district to which such action is transferred.

counsel, shall promptly submit modifications of his/her contact information by notifying the Court by e-mail to ecfchange@njd.uscourts.gov.

The E-Filing Registration Form includes a field for the ECF Filing User's e-mail address. This e-mail address is essential in order to receive Notices of Electronic Filing. It can be the User's business or personal e-mail address. It can also be an e-mail address for another person designated to receive these Notices.

Pro Se Parties - A party who is not represented by counsel must file documents with the Clerk as a Paper Filing.

A Pro Se party who is not incarcerated may request to receive filed documents electronically upon completion of a "Consent & Registration Form to Receive Documents Electronically." The form is available on the Court's web site at www.njd.uscourts.gov.

5. Consequences of Electronic Filing.

Electronic transmission of documents to the ECF System in accordance with these Procedures, together with the transmission of a Notice of Electronic Filing from the Court, constitutes filing of the document for all purposes of the Federal Rules of Civil Procedure, the Federal Rules of Criminal Procedure, and the Local Civil or Criminal Rules of this Court, and constitutes entry of the document on the docket kept by the Clerk under Federal Rules of Civil Procedure 58 and 79 and Federal Rules of Criminal Procedure 49 and 55.

Before filing a scanned document with the Court, an ECF Filing User must verify its legibility.

When a document has been filed electronically, the official record of that document is the electronic recording as stored by the Court on the ECF System. A document filed electronically is deemed filed on the date and time stated on the Notice of Electronic Filing from the Court.

Filing a document electronically does not alter the filing deadline for that document. Electronic filing must be completed before midnight Eastern time in order to be considered timely filed that day. In accordance with Rule 6(d) of the Federal Rules of Civil Procedure and Rule 45(c) of the Federal Rules of Criminal Procedure, service by electronic means is treated the same as service by mail for the purposes of adding three (3) days to the prescribed period to respond.

6. Entry of Court Orders and Related Papers.

All orders, decrees, judgments, and proceedings entered or issued by the Court will be filed in accordance with these Procedures, and such filing shall constitute entry on the docket kept by the Clerk under Federal Rules of Civil Procedure 58 and 79 and Federal Rules of Criminal Procedure 49 and 55.

All orders will be filed electronically by the Court or Court personnel. An order filed electronically signed with an s/ shall have the same force and effect as if the Judge had affixed a handwritten signature.

The assigned Judge or the Clerk's Office, if appropriate, may grant routine orders by a text-only docket entry for which a Notice of Electronic Filing will be generated. In such

cases, no PDF document will be issued, and the text-only entry shall constitute the Court's only order on the matter.

A Proposed Order accompanying a motion should be submitted as an electronic attachment to the motion. Any other type of Proposed Order should be submitted in accordance with the procedure for a "Proposed Order" as outlined in the Court's ECF User Manual.

7. Notice of Court Orders and Judgments.

Immediately upon the entry of an order or judgment in an action, the Clerk will transmit to all ECF Filing Users in the case, in electronic form, a Notice of Electronic Filing. Electronic transmission of the Notice of Electronic Filing constitutes the notice required by Federal Rules of Civil Procedure 77(d) and Federal Rules of Criminal Procedure 49(c).

8. Attachments and Exhibits.

An ECF Filing User shall submit in electronic form all documents referenced as exhibits or attachments, including briefs, in accordance with the Court's ECF User Manual, including file size limitations contained therein, unless otherwise ordered by the Court. An ECF Filing User shall submit as exhibits or attachments only those excerpts of the referenced documents that are directly germane to the matter under consideration by the Court. Excerpted materials must be clearly and prominently identified as such. The Court may require parties to file additional excerpts or the complete document.

9. Courtesy Copies

In addition to the electronic filing of all motion papers, including briefs, in support of or in opposition to a motion, the ECF Filing User shall submit forthwith to the Judge's or Magistrate Judge's chambers one courtesy copy of each filed paper or brief in paper form without disk or CD-ROM, unless otherwise directed by the judicial officer. These documents shall be clearly marked as courtesy copies and mailed or delivered directly to chambers.

10. Sealed Documents.

(a) Sealing of Documents and Confidential Materials under Local Civil Rule 5.3. The Court will no longer accept documents in civil cases as a Paper Filing under seal. All such documents must be submitted electronically and must be submitted in compliance with Local Civil Rule 5.3.

Unless otherwise provided by federal law, nothing may be filed under seal unless an existing order so provides or Local Civil Rule 5.3(c)(3) is complied with. FAILURE TO COMPLY WITH LOCAL CIVIL RULE 5.3 MAY RESULT IN A WAIVER OF ANY OTHERWISE VALID BASIS FOR SEALING AND MAY RESULT IN THE DOCUMENT IN ISSUE BECOMING PUBLICLY AVAILABLE. Note that any properly sealed document will, absent further order, be available to all other counsel of record in the particular civil action.

(b) Sealing of Criminal Documents. A document subject to a sealing order or order of confidentiality must be submitted as a Paper Filing, in an envelope clearly marked "sealed," and shall be accompanied by a disk or CD-ROM containing the document in PDF

for filing by the Clerk's Office. A motion to file a document under seal may be filed electronically, unless prohibited by law. The order of the Court authorizing the filing of documents under seal may be filed electronically, unless prohibited by law. A paper copy of the sealing order must be attached to the documents under seal and be delivered to the Clerk.

(c) Sexually explicit materials. Sexually explicit material(s) and any other material(s) that contain(s) inappropriate content for public access on the ECF System must be temporarily filed under seal until the Court determines under Federal Rule of Civil Procedure 5.2(d), Federal Rule of Criminal Procedure 49.1(d) and Local Civil Rule 5.3(c)(6) whether the material(s) should remain under seal.

11. Exceptions to Electronic Filing.

(a) Permissive Exceptions

A party may move for permission to serve and file as a Paper Filing documents that cannot reasonably be scanned.

(b) Mandatory Exceptions

The following documents are excluded from the ECF System and shall be filed solely as a Paper Filing:

- (1) Sexually explicit material(s) and any other material(s) that contain(s) inappropriate content for remote public access must be temporarily placed under seal until the Court determines under Federal Rule of Civil Procedure 5.2(d), Federal Rule of Criminal Procedure 49.1(d) and Local Civil Rule 5.3(c)(6) whether the material(s) should remain under seal.
- (2) Transcripts (by Official Court Reporters/Electronic Sound Recording System) ²
- (3) Grand Jury Matters:

The following documents are examples of grand jury matters:

- 1) Minute sheets of swearing in and impanelment;
- 2) Grand jury returns;
- 3) Voting slips;
- 4) Motions to quash subpoenas and orders ruling on them;
- 5) Motions to enforce subpoenas and orders ruling on them;

² Judicial Conference of the United States has directed, at its September 2007 session, that Court transcripts be filed on the CM/ECF System and available by remote public access. The Court plans to implement this Judicial Conference Policy on November 1, 2008.

- 6) Motions for immunity and orders ruling on them;
- 7) Motions for appointment of counsel and orders ruling on them.

(4) Warrants Issued:

The following are examples of types of warrants issued:

- 1) Seizure warrants;
- 2) Search warrants;
- 3) Pen registers;
- 4) Wire tap orders;

(5) Sentencing Memoranda.

12. Signatures.

- (a) Attorney Signatures. The user login and password required to submit documents to the ECF System serve as the ECF Filing User's signature on all electronic documents filed with the Court for purposes of Federal Rules of Civil Procedure¹¹, all other Federal Rules of Civil Procedure, Federal Rules of Criminal Procedure, and the Local Civil and Criminal Rules of this Court, and any other purpose for which a signature is required in connection with proceedings before the Court.

An electronically filed document, or a document submitted on disk or CD-ROM, and in compliance with Local Civil Rules 10.1 and 11.1, must include a signature line with "s/," as shown below.

s/ Jennifer Doe

- (b) Non-Attorney Signatures. A document requiring the signature of a non-attorney must be filed electronically by: (1) submitting a scanned document containing the necessary signature; or (2) in any other manner approved by the Court.
- (c) Multiple Signatures. Where a document requires the signatures of more than one (e.g., stipulations, consent orders) the "s/" block can be substituted for the signatures of ECF Filing Users. By submitting a document with "s/" block signatories, the filing attorney certifies that each of such signatories has expressly agreed to the form and substance of the document and has authorized the filing attorney to submit the document electronically. The filing attorney shall retain any records evidencing this agreement for future production, if necessary, until one (1) year after all periods for appeals expire. Any person who disputes the authenticity of any of the signatures on a document containing multiple signatures must file an objection to the document within ten(10) business days of the date of the Notice of Electronic Filing.

13. Retention Requirements.

The original of any document that is electronically filed and requires an original signature other than that of the ECF Filing User must be maintained by the ECF Filing User and/or the firm representing the party on whose behalf the document was filed until one (1) year after all periods for appeals expire. On request of the Court, the ECF Filing User or law firm must provide the original document.

14. Service of Documents by Electronic Means.

(a) Service of Process

Nothing in these Procedures shall affect the manner of filing and service of complaints (including third-party complaints) and the issuance and service of summonses, which in all civil actions shall continue to be filed, issued and served in paper form and in conformance with the Federal Rules of Civil Procedure and the Local Rules of this Court.

(b) Other Types of Service:

(1) ECF Filing User

Upon the electronic filing of a pleading or other document, the Court's ECF System will automatically generate and send a Notice of Electronic Filing to all ECF Filing Users associated with that case. Transmission of the Notice of Electronic Filing constitutes service of the filed document on Filing Users.

If the ECF Filing User becomes aware that the Notice of Electronic Filing was not transmitted successfully to a party, or that the notice is deficient, e.g., the electronic link to the document is defective, the filer shall serve a copy of the filed document by e-mail, hand, facsimile, or by first-class mail postage prepaid immediately upon notification of the deficiency of the Notice of Electronic Filing.

The submission of the completed and signed ECF Filing Registration Form to the Court constitutes consent to service of all papers via the Court's ECF System as provided in Federal Rules of Civil Procedure 5(b) and 77(d), and Federal Rule of Criminal Procedure 49, the Notice of Electronic Filing constitutes service of the filed document on ECF Filing Users.

A certificate of service must be included with **all documents** filed electronically. The certificate of service must indicate how service was accomplished, i.e., electronically and/or by other means as provided in Federal Rule of Civil Procedure 5(b) and Federal Rule of Criminal Procedure 49.

(2) Non ECF Filer

A Non ECF Filer is entitled to receive a paper copy of any electronically filed document from the party making such filing. Service of such paper copy must be made according to the Federal Rules of Civil Procedure, the Federal Rules of Criminal Procedure, the Local Civil or Criminal Rules of this Court, and as set forth in the ECF User Manual.

15. Technical Failures.

The Clerk shall deem the Court's ECF web site to be subject to a technical failure if the site is unable to accept filings continuously or intermittently for more than one hour occurring after 12:00 noon (Eastern Time) that day. If an ECF Filing User experiences a technical failure, the document may be submitted to the Court that day in an alternative manner, provided that it is accompanied by an affidavit of the ECF Filing User's failed attempts to file electronically at least two times at least one hour apart after 12:00 noon. The following methods of filing are acceptable as a result of **only the Court's** technical failure:

- (a) In person, by bringing the document to the Clerk's Office as a Paper Filing in compliance with paragraph 2 of these Procedures.
- (b) Via e-mail as a PDF attachment, sent to the e-mail address for Technical Failures listed in the ECF User Manual (ecfhelp@njd.uscourts.gov).
- (c) Through facsimile transmission to the Clerk's Office where the presiding judicial officer is stationed. When an ECF Filing User subject to Technical Failure submits a document by fax, the document shall be filed electronically on the next business day. Please refer to the fax numbers listed in the ECF User Manual.

The initial point of contact for an ECF Filing User experiencing technical difficulty filing a document electronically shall be the Court's ECF Help Desk at the toll free numbers listed in the ECF User Manual. When possible, the Clerk will provide notice of all such technical failures on the Court's web site and/or by of a broadcast e-mail message distributed to all ECF Filing Users.

An ECF Filing User who suffers prejudice as a result of a technical failure may seek appropriate relief from the Court.

16. Public Access

A person may retrieve information from the ECF System at the Court's web site, ecf.njd.uscourts.gov, by obtaining a PACER login and password. A person who has PACER access may retrieve docket sheets and documents in civil and criminal cases. Remote access to electronic documents in **Social Security cases** is limited as outlined in Federal Rule of Civil Procedure 5.2(c). Any case or document under seal shall not be available to the public through electronic or any other means.

17. Sensitive Information

As the public may access case information through the Court's ECF System, sensitive information should not be included in any document filed unless the Court orders otherwise. As required under Federal Rule of Civil Procedure 5.2(a) and Federal Rule of Criminal Procedure 49.1(a), when making any electronic or Paper Filing with the Court that contains an individual's social-security number, taxpayer-identification number, or birth date, the name of an individual known to be a minor, or a financial-account number, a party or nonparty making the filing may include only:

- (1) the last four digits of the Social-Security number and tax-identification number;
- (2) the last four digits of the financial account numbers;
- (3) the minor's initials;
- (4) the year of the individual's birth; and
- (5) In criminal cases for home addresses, use only the city and state.

In compliance with the E-Government Act of 2002, a party wishing to file a document containing the personal data identifiers specified above may either:

- (1) File an unredacted version of the document under seal, or;
- (2) File a redacted version of the document and file a reference list under seal. The reference list shall contain the complete personal identifier(s) and the redacted identifier(s) used in its (their) place in the filing. All references in the case to the redacted identifiers included in the reference list will be construed to refer to the corresponding complete personal data identifier. The reference list may be amended as of right.

The Court may still require the party to file a redacted copy for the public file.

In addition, caution must be exercised when filing documents that contain the following:

- (1) Personal identifying numbers, such as a driver's license number;
- (2) Medical records, treatment, and diagnoses;
- (3) Employment history;
- (4) Individual financial information; and
- (5) Proprietary or trade secret information.

Additional items for criminal cases only:

- (1) Information regarding an individual's cooperation with the government;
- (2) Information regarding the victim of any criminal activity;
- (3) National security information; and
- (4) Sensitive security information as described in 49 U.S.C. § 114(s).

Counsel are strongly urged to share this information with all clients so that an informed decision about the inclusion of certain material may be made. If a redacted document is filed, it is the sole responsibility of counsel and the parties to be sure that pleadings and other papers comply with the rules and orders of this Court requiring redaction of personal identifiers. The Clerk will **not** review each filing for redaction.

Counsel and the parties are cautioned that failure to redact personal identifiers and/or the inclusion of irrelevant personal information in a document filed with the Court may subject them to the full disciplinary and remedial power of the Court, including sanctions pursuant to Federal Rule of Civil Procedure 11.

18. Correcting Docket Entries

Once a document is filed electronically, corrections to the docket can only be made by the Clerk's Office. The ECF System will not permit the filing party to make changes to the document or docket entry once the transaction has been accepted. Only upon an Order of the Court can a document be removed or withdrawn from the ECF System.

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